REMARKS

In the Office Action, claims 32, 47 and 48 were objected to because of informalities. Claims 32, 47 and 48 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

In response to the Office Action, and the single rejection of the claims under 35 U.S.C. §112, first paragraph, independent claim 32 has been amended in response to the comments made by the Examiner. The distal end of the column is now defined as being a window configured for directly receiving all of the radiation from the brain tunnel from the distal end to the proximal end of the column, along an unobstructed path. The column has a constant cross section with the largest inner dimension of less than 3 mm.

The objected to claim language with respect to the field of view has been removed, and the subject matter of claim 48 has been incorporated into claim 32. Accordingly, as described in the specification with respect to the discussed dimensions, a ratio of a length of the column to the cross section of the column is at least 10:1.

The Examiner also went on to say, in the Office Action, that three prior art references were considered pertinent to Applicant's disclosure. With respect to these references, the Everest patent discloses a non-constant cross section along its length.

With respect to the Egawa and Cheslock et al. patents, Cheslock also includes a non-constant cross section from the proximal end having a sensor to a distal end having a window. In addition, both Cheslock and Egawa include some type of blockage of the window whether it is sanitary barrier 70 in Cheslock or filter 7 in Egawa. A ratio of a length of the column to a cross section of the column is also not specifically discussed with a largest inner dimension of less than 3 mm for a constant cross section.

Further, the filter 7 has a specific wavelength transmission characteristic for selectively transmitting an infrared wavelength and excluding dust. Whereas, in the present invention, the cavity 1038 focuses the radiation 1010 of the BTT area 1004 into the sensor 1034.

It should be noted that the other figures of the present invention related to non-contact sensors, such as shown in Figures 70 and 71A, both include a lens 1008 in Figure 70 and a lens 1016 in Figure 71A. In contrast, the window 1039 in Figure 71C is unobstructed and shown without an extra layer of material in the drawing, as contrasted with Figures 70 and 71A. Therefore, an unobstructed path of transmission of radiation energy 1010 is produced from the window 1039 to the sensor 1034 with the characteristic of the claimed cross section and ratio of length to cross section. These features of the present invention have not been disclosed by the prior art.

Accordingly, in the absence of the rejection under 35 U.S.C. §112, first paragraph, the captioned application should be in condition for allowance.

Based on the foregoing amendments and remarks, it is respectfully submitted that the present application should now be in condition for allowance. A Notice of Allowance is in order, and such favorable action and reconsideration are respectfully requested.

However, if after reviewing the above amendments and remarks, the Examiner has any questions or comments, he is cordially invited to contact the undersigned attorneys.

Respectfully submitted,

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